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while diminishing those of the home country. England applies the doctrine to appeals by a plaintiff who has become an alien enemy since judgment. *Porter v. Freudenberg*, [1915] 1 K. B. 857. But where the judgment directs payment to the alien property custodian, our resources will not go to Germany and there seems no valid reason for refusing to settle the rights of the parties. See *Rothbar v. Herzfeld*, 179 App. Div. 865, 869, 167 N. Y. Supp. 199, 202. Even in the absence of an alien property custodian, it has been held that a plaintiff who has become an alien enemy since judgment can appeal. See *Taylor v. Albion Lumber Co.*, 176 Cal. 347, 352, 168 P. 348, 350. At any rate, the result of the principal case is a necessary one, because it is a loyal defendant who is seeking relief in the Appellate Court. *Owens v. Hanney*, 9 Cranch (U. S.), 180.

WATERS — NAVIGABILITY — NECESSITY OF ACTUAL USER. — By the act of 1890 Congress prohibited the building of any dams across navigable waters of the United States without authority of the Secretary of War. (26 STAT. AT L. 454.) The defendant company constructed a dam across the Desplaines River in Illinois without obtaining such authority. The United States filed a bill of complaint seeking its removal and an injunction against further action. The evidence showed that the river had been used by fur traders with canoes and flatboats as late as 1830. Since then, however, due to natural obstacles to navigation and the construction of a canal near-by, it had not been used for commerce. *Held*, that the relief be granted. *Economy Light & Power Co. v. United States*, 256 Fed. 792 (Circ. Ct. App.).

Navigable waters of the United States are those which form, by themselves, or by their connections with other waters, a continuous channel for commerce with foreign countries or among the states. *The Daniel Ball*, 10 Wall. 557; *Miller v. Mayor of New York*, 109 U. S. 385. Navigability does not depend on the character of the craft, however propelled, or the nature of the commerce. *The Montello*, 20 Wall. (U. S.) 430; *Heyward v. Farmers' Mining Co.*, 42 S. C. 139, 19 S. E. 963. It is not necessary to prove long and continuous user nor adaptability for commercial use during all the seasons of the year. *Moore v. Sanborn*, 2 Mich. 519; *Lewis v. Coffey County*, 77 Ala. 190. *Cf. State v. Gilmanton*, 14 N. H. 467, 480. A stream is not rendered non-navigable because of temporary obstructions or because of difficulties caused by natural barriers such as rapids and sand bars. *The Montello*, *supra*; *Atty. Genl. v. Harrison*, 12 Grant, Ch. 466. But a stream not naturally navigable cannot be made so by artificial means so as to deprive riparian owners of their vested property rights. *Yates v. Milwaukee*, 10 Wall. 497; *Murray v. Preston*, 106 Ky. 561, 50 S. W. 1095. A navigation which is temporary, precarious, and unprofitable is insufficient. *Harrison v. Fite*, 148 Fed. 781; *North American Co. v. Mintzer*, 245 Fed. 297. The true criterion is one of sound business common sense, — natural useful capacity as a public highway of transportation. *Little Rock, etc. R. R. v. Brooks*, 39 Ark. 403. It would seem clear that the power of Congress under "the commerce clause" extends to potential agencies of interstate commerce, regardless of their actual usage, and to the preservation of natural highways for the public. Accordingly the principal case seems correct despite the contrary decision reached by the Illinois Supreme Court in regard to the identical situation. See *People v. Economy Power Co.*, 241 Ill. 290, 89 N. E. 760.

WILLS — REPUBLICATION — INCORPORATION BY REFERENCE — VALID CODICIL REFERRING TO WILL PROCURED BY UNDUE INFLUENCE. — The testator made a holographic will and some years later a holographic codicil referring to his will. The jury found that the will was procured by undue influence but that the codicil was valid and not so procured. *Held*, that both